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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/686,710	10/17/2003	Satoshi Miyaji	032024	8795
38834	7590	10/26/2007	EXAMINER	
WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP			THOMAS, JASON M	
1250 CONNECTICUT AVENUE, NW				
SUITE 700			ART UNIT	PAPER NUMBER
WASHINGTON, DC 20036			4126	
			MAIL DATE	DELIVERY MODE
			10/26/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/686,710	MIYAJI ET AL.
	Examiner Jason Thomas	Art Unit 4126

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 17 October 2003.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-5 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-5 is/are rejected.  
 7) Claim(s) 1-5 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 17 October 2003 is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application
	6) <input type="checkbox"/> Other: _____

**DETAILED ACTION*****Specification***

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

1. The abstract of the disclosure is objected to because the character spacing is condensed and inconsistent. Correction is required. See MPEP § 608.01(b).

***Drawings***

2. The drawings of figures 2, 3 and 6 are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "S7", "S8", "S9" and "S13" have been used to designate multiple events. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37

CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Objections***

3. Claims 1-5 are objected to because of the following informalities: the character spacing is condensed and inconsistent. Appropriate correction is required.
4. Claims 3 and 5 are objected to because of the following informalities: both claim 3 and 5 reference subject matter that is not found in claim 1. Claim 1 does not disclose a moving picture file that has fragment form. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Kenner et al. (U.S. Patent No. 5,956,716).

Regarding claim 1, Kenner discloses a storage and retrieval device (moving picture file distributing device) which receives video data (moving picture files) by uploading (see [column 10 lines 40-57] where video data is uploaded; see also [column 27 lines 63-65] and [column 31 lines 54-56] for section on

uploading) and stores it in storage means (see [figure 1] where SRUs are shown; [column 28 lines 30-39] where uploaded data is stored on Web server; [column 10 lines 40-57] for storage engine; [column 28 lines 52-54] for the invoking of the storage management logic) and distributes the video data stored in the storage means to a client by downloading (see [column 5 lines 39-41] where users can access by downloading data via the Web or Web-like sites), comprising: upload buffer generating means for dynamically generating an upload buffer for temporarily holding a moving picture file at the time of reception for each session; and download buffer generating means for dynamically generating a download buffer for temporarily holding a moving picture file at the time of distribution for each session (see [figure 2] for DSI buffer, [column 5 lines 8-38] for DSI session creation, [column 6 lines 42-52] for querying during a user session, [column 12 lines 5-18] for DSI session creation used to buffer data and its destruction immediately thereafter; [column 29 lines 36-40] where the same storage logic is inherent to the device and applied not only for the downloading but also for uploading video data as discussed in this section).

Regarding claim 2, Kenner discloses all of the limitations of claim 1 including means for holding an entire video data in the upload buffer before transferring the video data to the storage means (see [column 11 lines 33-44 and column 11 line 65 through column 12 line 3] for holding an entire contiguous video to be ready for transmission in the transmit buffer, [column 10 lines 40-57] for storage means; see also [column 29 lines 36-40] where the same storage

logic is inherent to the device and also capable of being used for uploads); and means for, eliminating the upload buffer after transferring the video data to said storage means and generating the upload buffer prior to the start of said upload (see [column 12 lines 5-18] for DSI session creation for buffering data and destruction immediately thereafter; see also [column 29 lines 36-40] where the same storage logic is inherent to the device and also capable of being used for uploads).

Regarding claim 3, assuming the moving picture file distributing device is according to claim 1, Kenner discloses all of the limitations of claim 1 including means for each time holding fragmented video data in the upload buffer where one fragment is completed before transferring the fragments to the storage means (see [column 15 lines 14-23] where the video data can be stored in storage blocks which are stored separately); and means for, eliminating the upload buffer after transferring the video data to said storage means and generating the upload buffer prior to the start of upload (see [column 12 lines 5-18] for DSI session creation for buffering data and destruction immediately thereafter; see also [column 29 lines 36-40] where the same storage logic is inherent to the device and also capable of being used for uploads).

Regarding claim 4, Kenner discloses all of the limitations of claim 1 including means for holding an entire video data in the download buffer before transferring the video data to the storage means (see [column 11 lines 33-44 and column 11 line 65 through column 12 line 3] for holding an entire contiguous

video to be ready for transmission in the transmit buffer, [column 10 lines 40-57] for storage means) and means for, eliminating the download buffer after transferring the video data to said storage means and generating the download buffer prior to the start of said download (see [column 12 lines 5-18] for DSI session creation for buffering data and destruction immediately thereafter).

Regarding claim 5, assuming the moving picture file distributing device is according to claim 1, Kenner discloses all of the limitations of claim 1 including means for each time holding fragmented video data in the download buffer where one fragment is completed before transferring the fragments to the storage means (see [column 15 lines 14-23] where the video data can be stored in storage blocks which are stored separately); and means for, eliminating the download buffer after transferring the video data to said storage means and generating the download buffer prior to the start of download (see [column 12 lines 5-18] for DSI session creation for buffering data and destruction immediately thereafter).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Thomas whose telephone number is (571) 270-5080. The examiner can normally be reached on Mon. - Thurs., 8:00a.m. - 5:00p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dennis Chow can be reached on (571) 272-7767. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

J. Thomas

Lun-Yi Lao  
Primary Examiner  
